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2
3 UNITED STATES DISTRICT COURT
4 WESTERN DISTRICT OF WASHINGTON
5 AT TACOMA

6 JOHN A. CHACON,

7 Plaintiff,

v.

8 MICHAEL J. ASTRUE, Commissioner of
9 Social Security,

10 Defendant.

11
12 Case No. 11-5001 RBL-KLS

13 REPORT AND RECOMMENDATION

14
15 This matter has been referred to the undersigned Magistrate Judge pursuant to 28 U.S.C.
16 § 636(b)(1)(B) and Local Rule MJR 4(a)(4) and as authorized by Mathews, Secretary of H.E.W.
17 v. Weber, 423 U.S. 261 (1976). This matter is before the Court on the stipulated motion for
18 remand. (ECF #12). After reviewing the parties' stipulated motion and the remaining record, the
19 undersigned recommends that the Court grant the parties' motion, and remand this matter to the
20 Commissioner for further proceedings.

21 This Court recommends that on remand the Administrative Law Judge will offer the
22 claimant an opportunity for a new hearing and issue a new decision. The ALJ will:

- 23 • further evaluate the medical opinions of Drs. Wingate and Clifford;
- 24 • further evaluate the opinion of examining physician Dr. Gritzka;
- 25 • re-evaluate, in light of the prior court order, the nature and severity of the claimant's
26 mental impairment and seizure disorder including the impact of drug addiction or
 alcoholism (DAA) on the claimant's functioning;

- conduct the sequential evaluation process including the impact of DAA, and, if the claimant is found disabled, then conduct a second sequential evaluation, excluding the effects of DAA, obtaining additional medical expert testimony if necessary.

The ALJ will take any other actions necessary to develop the record. Plaintiff may submit additional evidence and arguments to the ALJ on remand.

This case is reversed and remanded on the above grounds pursuant to sentence four of 42 U.S.C. § 405(g), and Plaintiff is entitled to reasonable attorney's fees and costs pursuant to 28 U.S.C. § 2412(d), upon proper request to this Court.

Given the fact of the parties' stipulation, the Court recommends that the District Judge immediately approve this Report and Recommendation and order the case **REVERSED** and **REMANDED**. A proposed order accompanies this Report and Recommendation.

DATED this 14th day of September, 2011.

Karen L. Strombom
Karen L. Strombom
United States Magistrate Judge